



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: [REDACTED] Office: San Francisco

Date: JAN 11 2000

IN RE: Obligor: [REDACTED]
Bonded Alien: [REDACTED]

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under § 103 of the
Immigration and Nationality Act, 8 U.S.C. 1103

IN BEHALF OF OBLIGOR: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

[Signature]
Terrance M. O'Reilly, Director
Administrative Appeals Office

JAN 11 2000 - 064105

DISCUSSION: The voluntary departure bond in this matter was declared breached by the District Director, San Francisco, California, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The record indicates that on January 26, 1999 the obligor posted a \$500 bond for the voluntary departure of the above referenced alien. On February 25, 1999, the alien was granted until March 27, 1999 to depart the United States voluntarily in lieu of deportation. The Service granted the alien an additional 30 days, until April 27, 1999, to depart. The record is devoid of the required evidence that he has departed.

On appeal, the obligor asserts that the bonded alien allegedly departed and neither he nor the alien has any control on obtaining the Form I-392 from China to verify the departure. The obligor submitted copies of the alien's passport and airline tickets in support of the appeal.

Voluntary departure bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to the immigration officer, upon each and every written request until the alien actually departs the United States and provides documentation of the departure, or until the alien is actually accepted by the immigration officer for detention or removal. Matter of Smith, 16 I&N Dec. 146 (Reg. Comm. 1977), followed.

The Service has held that an alien who departs from the United States prior to the date demanded for surrender may be in substantial compliance with the terms of his delivery bond. Matter of Don Donaldson's Key Bail Service, 13 I&N Dec. 563 (Acting Reg. Comm. 1969). However, the burden is upon the alien or his surety to prove by probative evidence that the alien did leave the country prior to his surrender date. Matter of Peerless Insurance Company, 15 I&N Dec. 133 (Reg. Comm. 1974).

A physical verification of departure by an immigration officer at the port of departure, or a verification of the alien's presence in the foreign destination by a United States consular officer or immigration officer abroad, is required to verify departure. Whether together or separate, Forms I-94 and departure manifests submitted by a transportation line are insufficient verification of departure for bond cancellation purposes.

The Service will accept a document signed by an embassy official, consular officer, or Service officer abroad, and bearing an appropriate seal or other indicia of reliability as proof that a voluntary departure or self-removal has occurred. The district director retains the discretion to accept other documents of voluntary departure. The original of such document[s] may be delivered [either] by the surety or through diplomatic channels. Copies of such documents will be accepted only if received through diplomatic channels.

The obligor asserts that the bonded alien departed from the United States on April 12, 1999. However, the obligor's assertion is unsupported by any required evidentiary documentation. Nor does the record contain a Notification of Departure-Bond Case (Form I-392) properly executed by a United States Embassy official, consular officer or immigration officer abroad and received through official channels indicating the bonded alien's departure from the United States prior to his surrender date.

The record reflects that the alien was required to depart from the United States on or before April 23, 1999. No satisfactory evidence has been introduced into the record to establish he made a timely departure.

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the district director will not be disturbed.

ORDER: The appeal is dismissed.